

3 MASTER RESPONSES

The following section contains master responses to environmental comment issues raised by multiple commenters for six topics: reasons for recirculating the DEIR (Master Response 1), disagreement regarding the conclusions of the DEIR (Master Response 2), traffic and circulation (Master Response 3), hazards and hazardous materials (Master Response 4) cultural resources (Master Response 5), evaluation of a small farming alternative (Master Response 6), and agricultural resources (Master Response 7). The intent of a master response is to provide a comprehensive response to an issue or set of interrelated issues raised by multiple commenters, so that all aspects of the issue can be addressed in a coordinated, organized manner in one location. Where appropriate, responses to individual comments on these three topics are directed to the master responses. For example, if a comment addresses the hazardous materials analysis addressed by a master response, the response will include the statement, “Please refer to Section 3.3 Master Response 3 - Hazardous Materials Impacts.”

3.1 MASTER RESPONSE 1 — RECIRCULATION OF THE DEIR

Several comments were submitted that questioned why certain information or responses to comments were not provided in the Recirculated DEIR. Other comments addressed issues that were reanalyzed in the Recirculated DEIR. The following master response provides an explanation of the City’s reasons for recirculating the DEIR and how the Recirculated DEIR document relates to this Response to Comments document.

3.1.1 REASONS FOR RECIRCULATING THE DEIR

In March 2006, the City of Santa Clara (City) published the Santa Clara Gardens Development Project Draft Environmental Impact Report (DEIR), which assessed the potential environmental impacts of implementing the proposed Santa Clara Gardens development project. The DEIR was circulated for public review and comment for a period of 45 days beginning on March 9, 2006. At the end of the review period, comments were received on the DEIR. The City reviewed those comments to identify specific environmental concerns and determine whether any additional environmental analysis would be required to respond to issues raised in the comments. Some comments were received that addressed the methodology used in assessing the project’s cumulative transportation impacts. Specifically, commenters requested that the cumulative transportation analysis consider the impacts of the project in combination with development associated with the proposed expansion of Westfield’s Valley Fair Mall (adjacent to the Project Site). Many commenters also raised questions regarding the site’s historic use as a testing center for pesticides and expressed concerns about hazards and hazardous materials.

Whenever significant new information is added to an EIR after public notice of availability is given but before certification, a lead agency is required to recirculate the draft EIR. As defined in Section 15088.5 of the State CEQA Guidelines, “significant new information” can include changes to the environmental setting or the identification of a new significant environmental consequence.

TRAFFIC

CEQA requires that environmental review of a Proposed Project include all past, present, and reasonably foreseeable probable future projects in determining whether a Proposed Project may contribute to a cumulative impact in the environment. The traffic analysis contained in the DEIR was completed in October 2005. The traffic consultant preparing the analysis contacted the City of San Jose regarding any projects that could contribute traffic in the region of the Proposed Project. During those discussions, San Jose City staff stated that there were no applications received or pending related to Valley Fair Mall. As a result, the cumulative transportation analysis prepared for the DEIR considered all past, present, and reasonably foreseeable probable future projects as of September 2005. The City of San Jose received an application for an expansion of Valley Fair Mall in March 2006, just shortly before the DEIR was released for public review.

While the DEIR complied with CEQA and the State CEQA Guidelines regarding analysis of cumulative impacts based on knowledge available at the time of the assessment, the list of reasonably foreseeable probable future projects changed with the submittal of the Valley Fair Mall application to the City of San Jose in a way that could substantially affect the cumulative transportation analysis. The City of Santa Clara decided to re-evaluate the cumulative traffic scenario to include the proposed Valley Fair Mall expansion, because the mall project's size and close proximity to the Santa Clara Gardens site may have constituted a sufficient change in the future cumulative project conditions to alter significant impact conclusions. Therefore, a revised traffic analysis was prepared in July 2006. (Please see Section 4.10, "Transportation and Circulation," of the Recirculated DEIR for the revised traffic analysis.)

The results of the analysis revealed that the project, in combination with the proposed mall and other cumulative development, would cause one new roadway intersection (i.e., Stevens Creek Boulevard and Winchester Boulevard) to exceed identified significance thresholds. Further, feasible mitigation is not available that would ensure the impact could be reduced to a less-than-significant level (as explained in the revised traffic analysis and in Master Response 2, below). As a result of the cumulative increase in traffic by combination of the Proposed Project and other related projects, including the newly proposed mall expansion, a new significant and unavoidable cumulative traffic impact was identified at an intersection. Based on the identification of the additional non-mitigatable, significant cumulative traffic impact, the City recirculated the Transportation and Circulation portion of the DEIR.

HAZARDS/HAZARDOUS MATERIALS

Public comments were also submitted expressing concern about the potential for hazardous materials effects from prior pesticide use on the site. Independently, recognizing the need to recirculate the DEIR for the revised traffic analysis, the City also decided to clarify the approach and methodology used to assess the potential for hazardous materials risk, even though the DEIR's impact conclusion (i.e., less-than-significant effect) did not change and no additional, substantive information about site conditions was added to the EIR. All information clarified and elaborated in the Recirculated DEIR was presented in the appendices of the DEIR (Appendix D and E) and the removal action workplan (RAW) referenced by the DEIR and circulated by the Department of Toxic Substances Control (DTSC) during the public review period of the DEIR. Please see Section 4.6, "Hazardous and Hazardous Materials" of the Recirculated DEIR for the clarifying explanation about methods used to assess the potential for hazardous materials on the Project Site.

3.1.2 RELATIONSHIP OF RECIRCULATED DEIR AND RESPONSE TO COMMENTS

The purpose of this document is to provide written responses to all environmental issues raised on the DEIR and Recirculated DEIR consistent with the requirements of CEQA and the State CEQA Guidelines. All comments received on the DEIR and Recirculated DEIR were catalogued and numbered and a corresponding response is provided in this document. Please refer to Chapter 4 for responses to comments raised on the DEIR and Chapter 5 for responses to comments raised on the Recirculated DEIR. For those questions or issues raised by commenters asking why the Recirculated DEIR did not include a response to their specific comment, this document provides that response.

As required by State CEQA Guideline Section 15088, the City has evaluated all comments received on the DEIR and Recirculated DEIR. The City has determined that, with the exception of the two issue areas identified in Section 3.1.1 above, comments received on the DEIR and Recirculated DEIR could be adequately addressed through the preparation of written responses and no other new issues were raised that resulted in "significant new information," such that additional recirculation would be required. Specifically, based on the comments received, no new significant environmental impacts would result from the project that were not previously identified in the DEIR or Recirculated DEIR. There would be no substantial increase in the severity of a previously identified significant environmental impact. No new feasible alternatives that meet most of the basic project objectives nor new feasible mitigation measures that are considerably different from others previously evaluated in the DEIR or

Recirculated DEIR were presented that the applicant declined to implement. Therefore, other comments and submitted information did not preclude agencies and the public from a meaningful opportunity to comment on significant effects of the Proposed Project (see State CEQA Guidelines Section 15088.5).

The environmental analysis presented in the DEIR and Recirculated DEIR adequately evaluated the environmental impacts associated with implementation of the project. Both the DEIR and Recirculated DEIR complied with the requirements for contents of an EIR (Article 9, Sections 15120 to 15132 of the State CEQA Guidelines). The Recirculated DEIR also complied with State CEQA Guidelines requirements for its contents (Section 15088.5 of the State CEQA Guidelines). Further, the City has provided a good-faith effort in compiling all available information regarding the project and its potential environmental impacts, including recirculating certain portions of the DEIR for additional review and comment. No significant new information not previously addressed by the DEIR, Recirculated DEIR, or this Response to Comment document has become available. The City has presented the best available information regarding the project's environmental impacts based on substantial evidence included in the whole of the record.

3.2 MASTER RESPONSE 2 — DISAGREEMENT REGARDING THE CONCLUSIONS OF THE DEIR

Several commenters expressed their disagreement with the conclusion that the project's impacts would be less than significant for hazardous materials, transportation, and historic resource issues, among others. For instance, several commenters expressed support for placing the site on the California Register of Historical Resources (CRHR) and National Register of Historic Places (NRHP), when the EIR determine the site was not eligible for those lists. Other comments indicated that the project's hazardous material impacts related to remediation activities or the neighborhood transportation impacts would be significant, when the EIR concluded they would be less than significant.

The State CEQA Guidelines require that decisions regarding the significance of environmental effects addressed in an EIR be based on substantial evidence and recognize that other evidence suggesting a different conclusion may exist. The DEIR and the Recirculated DEIR provide a comprehensive evaluation of the project's environmental impacts in compliance with CEQA and the State CEQA Guidelines and in accordance with professionally accepted methodology for the evaluation of environmental resources. The DEIR, Recirculated DEIR, and this Response to Comments document present substantial evidence to support the conclusions drawn within these documents regarding the significance of the project's environmental effects. When commenters disagree about environmental conclusions, the EIR can acknowledge that disagreement, but it need not resolve all debates. Section 15151 of the State CEQA Guidelines states that: "Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts." The lead agency will ultimately determine which conclusion is appropriate, based on the substantial evidence presented in the EIR and other documents in the whole of the record.

The comment letters and responses to them present summaries of the areas of disagreement. In some cases, there is no substantial evidence offered by commenters to support that a different conclusion should be drawn. As such, no further response to disagreements presented in the comment letters is necessary. If evidence is provided by the commenter to support the disagreement with the EIR's conclusion, the evidence is summarized and considered in making the EIR's conclusion. The City of Santa Clara will review and consider all the substantial evidence in the whole of the record in making its decisions about the project and its environmental effects.

3.3 MASTER RESPONSE 3 — TRAFFIC

The DEIR and the Recirculated DEIR provide a comprehensive evaluation of the project's transportation and circulation impacts. As described in Master Response 1 above, the transportation and circulation section of the DEIR was recirculated to include significant new information in the cumulative traffic analysis. Specifically, the Valley Fair Expansion project was added to the cumulative scenario. As such, the transportation and circulation

analysis presented in the Recirculated DEIR (Section 4.10) provides the most up-to-date information regarding the project's traffic impacts.

As described on page 4-16 of the Recirculated DEIR, the analysis was based on a revised Transportation Impact Analysis (July 2006) and the Neighborhood Impact Analysis (September 2005) prepared by Fehr & Peers. These documents were included as Appendix B, J, and K of the Recirculated DEIR. The analysis prepared for the project was consistent with the requirements of the Santa Clara Valley Transportation Authority (VTA), County of Santa Clara, City of Santa Clara, and the City of San Jose. All of these agencies were contacted to review the scope of the analysis prior to its publication. Further, pursuant to Public Resources Code Section 21083.9, on October 3, 2005 the City held a public scoping meeting to receive oral comments on the scope and content of the analysis presented in the EIR.

As set forth in the Recirculated DEIR at page 4-26, the project's transportation and circulation impacts were determined to be significant if the project would:

- ▶ cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system;
- ▶ exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways;
- ▶ substantially increase hazards because of a design feature or incompatible uses;
- ▶ result in inadequate emergency access;
- ▶ result in inadequate parking capacity; or
- ▶ conflict with adopted policies, plans, or programs supporting alternative transportation.

In addition to the above thresholds, thresholds for impacts to neighborhood streets were developed based on research of traffic volume thresholds in other local and state jurisdictions. The methodology used to develop these thresholds is described in the Neighborhood Impact Analysis prepared by Fehr & Peers (September 2005) and was included as Appendix K. The project would result in significant neighborhood traffic impacts if it would:

- ▶ cause the average weekday daily traffic volume to exceed 1,500 vehicles per day (vpd) on a local residential street or 2,800 vpd on a residential collector street; or,
- ▶ increase the average weekday daily traffic volume by 150 vpd on any local or residential collector street, regardless of existing volume.

Multiple comments were received on the DEIR and Recirculated DEIR that addressed the traffic analysis. Some of the issues raised resulted in the recirculation of the DEIR (see 3.1 Master Response 1 – Recirculation of the DEIR). Other issues raised require clarification of the information presented in the DEIR and/or response to specific concerns regarding traffic-related issues. In some cases, multiple commenters raised the same or substantially similar issues such that preparation of a master response is warranted. The following provides a list of traffic comments that were raised by multiple commenters:

- ▶ The DEIR did not evaluate the cumulative impacts of the proposed Valley Fair Mall Expansion.
- ▶ The DEIR should have evaluated additional intersections and roadways.
- ▶ The DEIR should have addressed impacts to the residents of the City of San Jose.

Other issues regarding the traffic analysis were raised by individual comments and specific responses were provided to them. These individual responses can be found in Chapters 4.0 and 5.0 of this document. The following provides a response to the three issues listed above.

3.3.1 METHODOLOGY USED IN PREPARATION OF THE EIR TRAFFIC IMPACT ANALYSIS

To evaluate the project's potential transportation and circulation impacts, a Transportation Impact Analysis (TIA, Appendix J of the DEIR) was prepared consistent with the methodology of the City of Santa Clara, City of San Jose, Santa Clara Valley Transportation Authority (VTA), and the Congestion Management Agency of Santa Clara County. The purpose of the TIA is to identify the potential impacts of the proposed development on the surrounding transportation system. In preparation of the scope of work for the TIA, staff of the above agencies was contacted to confirm the selected study area intersections and approaches. Comments on the scope were received from those agency staff and incorporated into the analysis (see Appendix A of the Draft EIR).

Typically, traffic studies such as the TIA focus on street capacity, congestion, and levels of service on roadways and intersections. Such an analysis is not well suited for a qualitative analysis of the livability impacts on residential streets. In particular, a traffic study may conclude that anticipated levels of service adhere to adopted standards. Nevertheless, those who reside in a neighborhood may perceive traffic impacts because of increased traffic levels. Therefore, in addition to preparing the TIA, the City also prepared a Neighborhood Impact Analysis report (Appendix K of the DEIR). The neighborhood impact analysis tends to be qualitative, rather than quantitative, because the analysis focuses on the perceived impacts to area residents. The purpose of this report was thus to identify whether increased traffic volumes identified in the TIA would result in "livability" impacts to the surrounding neighborhoods. Streets that were selected for evaluation were those roadways that could experience a substantial number of project trips. This analysis focused on the traffic-related impacts that would occur to neighborhood streets, focusing on increased trips related to volume thresholds established for neighborhood streets. Based on the traffic consultant's research and experience regarding control of traffic on residential streets in other California communities, the analysis identifies a significance threshold for purposes of determining whether such increased traffic would be significant. This threshold is not based on conventional level-of-service analysis, but on evidence and evaluation from other projects and communities regarding neighbors' perceptions of increased traffic. The threshold establishes both a standard for total daily traffic volumes on residential streets (1,500 vehicles per day on a local residential street or 2,800 vehicles per day on a residential collector street), and a standard for increased traffic volumes from the project alone (150 vehicles per day). The analysis concludes that, using these thresholds, project traffic in combination with local neighborhood traffic would not be significant. (Please see Recirculated DEIR, Impact 4.10-9.)

The intersections selected for study in the TIA are those intersections that are anticipated, based on observed traffic distribution patterns, to receive a substantial number of project-related vehicle trips. The intersections were selected consistent VTA's guideline for traffic impact analysis. Under this guidance, intersections were included in the analysis if the project is expected to generate ten or more trips per lane during the peak travel hour. As described in the TIA, 16 study area intersections were selected for evaluation, based on this criterion. These study intersections were then analyzed during the morning (a.m.) and evening (p.m.) peak periods for four scenarios: 1) Existing Conditions, 2) Background Conditions, 3) Project Conditions, and 4) Cumulative Conditions. The results of this analysis are presented in Section 4.10, "Transportation and Circulation," and Section 5.2, "Cumulative Impact Analysis," of the DEIR.

During public review of the DEIR, comments were received that requested that the recently proposed Valley Fair Mall expansion project be evaluated in the cumulative traffic scenario. The traffic analysis for the DEIR was prepared in October 2005. At that time, the City of San Jose had not received any applications for the proposed expansion of Valley Fair Mall and based on consultation with City of San Jose and Santa Clara staff in developing the cumulative traffic scenario, the mall expansion was not a reasonably foreseeable, probable future project at the time the DEIR was completed.

The applicant for the proposed Valley Fair Mall expansion project submitted its development application to the City of San Jose in March 2006, shortly before the DEIR was released for public review. While the DEIR complied with CEQA and the State CEQA Guidelines regarding analysis of cumulative impacts, the list of reasonably foreseeable probable future projects changed with the submittal of the Valley Fair Mall application to the City of San Jose in a way that could substantially affect the cumulative transportation analysis. The City of Santa Clara decided to re-evaluate the cumulative traffic scenario to include the proposed Valley Fair Mall expansion, because of this project's size and close proximity to the Santa Clara Gardens site. The revised analysis was performed to determine whether the mall expansion would change future traffic conditions enough to cause new significant effects not previously reported in the DEIR or make already identified significant effects substantially more severe. The revised TIA was prepared in July 2006 (Appendix J of the Recirculated DEIR) and a revised Section 4.10, "Traffic and Circulation" was also prepared. The results of the analysis revealed that the Proposed Project, in combination with the mall expansion and other cumulative development already considered in the DEIR and Recirculated DEIR (see Appendix M of Recirculated DEIR), would cause one new roadway intersection (i.e., Stevens Creek Boulevard and Winchester Boulevard) to exceed identified significance thresholds. Mitigation recommended for the project (see page 5-9 of the Recirculated DEIR) would require the project applicant to contribute funding toward improvements identified for the City of San Jose's multi-modal transportation system and to contribute funding toward construction of an additional southbound left-turn lane at this intersection. With implementation of this mitigation, this impact would be reduced to a less-than-significant level; however, because these improvements are in the jurisdiction of the City of San Jose and are not under the control of the City of Santa Clara and funding for multi-modal transportation improvements would not guarantee that improvements would be implemented prior to project build out, it is unknown at this time whether this mitigation measure would be implemented. No other feasible mitigation is available. Therefore, this impact is considered significant and unavoidable and the project would contribute to a new significant and unavoidable cumulative impact at this intersection. Consequently, the Transportation and Circulation project and cumulative impact sections of the DEIR were re-circulated to the public for a second review period of at least 45 days, consistent with the requirements of CEQA and the State CEQA Guidelines.

One of the main reasons for preparation of the revised TIA and recirculation of the DEIR was to address the potentially changed, future cumulative traffic conditions in the vicinity of the proposed Santa Clara Gardens Development. Therefore, its influence on traffic impacts of the Proposed Project has been thoroughly disclosed in Section 4.10 and Appendix J of the Recirculated DEIR.

3.3.2 EVALUATION OF ADDITIONAL INTERSECTIONS AND ROADWAYS

Several commenters questioned why certain intersections or roadways were not considered in the analysis. For example, members of the Cory Neighborhood (neighborhood bordered by Winchester Boulevard to the west, Newhall Street on the north, Bascom Avenue/I-880 on the east, and Forest Avenue on the south) expressed concern that the DEIR did not evaluate the project's traffic impacts to their neighborhood streets. Other commenters were concerned that the DEIR did not evaluate impacts to San Jose intersections and neighborhood impacts on San Jose residents.

A project in an urban community is surrounded by many roadways and intersections that could at some point receive a number of project-related trips. All roadways and intersections that may carry project traffic were examined in the EIR. The City of Santa Clara, City of San Jose, VTA, and the Congestion Management Agency (CMA) of Santa Clara County have each developed extensive methodology to determine the roadways and intersections that should be quantitatively evaluated for a project proposal within each of their jurisdictions. This methodology includes considering trip distribution patterns, existing traffic congestion, and knowledge of the local land uses. In addition, criteria are identified to determine whether a roadway should be evaluated for level of service or travel delay or not. For example, the VTA's screening criterion for evaluating level of service or travel delay impacts at an intersection is 10 project trips per lane during the peak hour. If the project's trips at an intersection meet or exceed this criterion, then this intersection would be selected for level of service and travel delay calculations in the traffic study. Once the roadways are selected based on this initial screening, for each study

area roadway the project's impacts are evaluated against adopted thresholds of the jurisdiction where that roadway lies to determine whether project impacts would be significant. The adopted thresholds for the City of Santa Clara, City of San Jose, VTA, and CMA are described on pages 4-21 and 4-22 of the Recirculated DEIR.

Many roadways surrounding a project may experience at least some project-related trips; however, the contributions of trips to many streets and intersections would be small, have a minor effect, and would not exceed established criteria for quantitative level of service calculations (i.e., generate 10 project trips per lane during the peak hour). The analysis presented in the DEIR and Recirculated DEIR evaluated all roadways that met the VTA criterion for evaluating LOS or travel delay. The VTA criterion is used for that purpose. Section 15151 of the State CEQA Guidelines authorizes this approach; the Guidelines state that an EIR need not be exhaustive, but need only contain sufficient analysis to provide decision-makers with information that enables them to make a decision that intelligently takes account of the environmental consequences. An EIR should make a good-faith effort at full disclosure of this analysis.

The purpose of the TIA and Neighborhood Impact Analysis is to disclose to decision-makers the magnitude of potential traffic impacts that could occur with implementation of the Proposed Project. Traffic patterns could change and the magnitude, frequency, and trip distribution of traffic generated by the project can not be precisely predicted; however, the analysis presented in the DEIR and Recirculated DEIR represents a good-faith effort to evaluate traffic impacts.

3.3.3 TRAFFIC IMPACTS IN SAN JOSE

Where commenters raised issues regarding specific roadways, please see the responses to comments presented in Chapters 4.0 and 5.0 of this document. The TIA and Neighborhood Impact Analysis were not limited to City of Santa Clara intersections. Where the potential for substantial project traffic may occur under the thresholds identified above, the TIA included intersections outside the City of Santa Clara. Several City of San Jose and Santa Clara County intersections were evaluated in the TIA, including the following: Hedding Street/Bascom Avenue; Forest Avenue/Winchester Boulevard; Forest Avenue/Naglee Avenue; Dorcich Street/Winchester Boulevard; Stevens Creek Boulevard/Saratoga Avenue; Stevens Creek Boulevard/San Tomas Expressway; Stevens Creek Boulevard/Winchester Boulevard; Stevens Creek Boulevard/Monroe Street; Stevens Creek Boulevard/Southbound I-880 Off-ramp; Tisch Way/Northbound I-280 On-ramp and Winchester Boulevard; Moorpark Avenue/Southbound I-280 Off-ramp; and Moorpark Avenue/Winchester Boulevard.

Intersections next to the Cory Neighborhood in San Jose were also evaluated, i.e., Winchester Boulevard/Forest Avenue, Winchester Boulevard/Hedding Street, and Winchester Boulevard/Newhall Street. Detailed discussions of the Proposed Project's traffic impacts on the Cory Neighborhood are not provided in the EIR (refer to page 10 of Appendix K-vpd threshold), because the calculated volume of additional traffic added by the project in this area would be very small and would not meet adopted vehicles-per-day thresholds for neighborhood streets, as explained in Appendix K of the Draft EIR. Therefore, the project's trips along these roadways would not reach thresholds for conducting additional analysis. The Cory Neighborhood is northeast of the Project Site and north of Valley Fair Mall, generally bounded by Forest Avenue, Winchester Boulevard, Newhall Street, Bascom Avenue, and I-880, as depicted on the neighborhood association's website map located at www.coryneighborhood.org.

The traffic analysis in the Recirculated DEIR, Appendix J, includes evaluation of three major intersections on the western border of the Cory Neighborhood (see Figure 8 in Appendix J of the Recirculated DEIR): Forest/Winchester, Hedding/Winchester, and Newhall/Winchester. The number of project trips that would turn east on Forest Avenue, east on Hedding Street, or east on Newhall Street would be the trips that would be heading in a direction to potentially travel into or through the Cory Neighborhood. The expected numbers for these trips are very small. As depicted in Figure 8 of Appendix J, at peak hour, the Recirculated DEIR indicates that 12 – 16 total trips would travel on Forest Avenue east of Winchester Boulevard; 5 – 13 trips would travel on Hedding Street east of Winchester Boulevard; and 2 – 4 trips would travel on Newhall Street east of Winchester Boulevard. Not all of the trips east of Winchester Boulevard would enter the residential area of the neighborhood (but rather

would stay on the major through streets), so the actual number of trips traveling on the residential streets of the neighborhood would be reasonably expected to be less than the range shown in Figure 8. The range of trips reflects consideration of both a.m. or p.m. peak hours and trips traveling both to and from the Project Site.

Appendix K in the Recirculated DEIR, “Potential Neighborhood Impacts,” examined thresholds of significance for increased neighborhood traffic used in other jurisdictions to determine an appropriate measure for this project circumstance (see Table 4 in Appendix K). This research and analysis led to identification of 150 vehicles per day as the recommended threshold. With the potential number of the project’s peak hour trips traveling toward the Cory Neighborhood being as small as indicated in Appendix J, the vehicles per day threshold for neighborhood street impacts (i.e., 150 vpd) would not be reached. Consequently, neighborhood traffic impacts in this area would not be significant and no further analysis is needed.

3.4 MASTER RESPONSE 4 — HAZARDOUS MATERIALS IMPACTS

As described in Master Response 1 (Section 3.1), the hazardous materials section of the DEIR was recirculated to clarify and amplify the methodology used in preparing the hazardous materials analysis. Section 4.6, Hazards and Hazardous Materials, provided a thorough evaluation of the project’s hazard impacts based on the best available project-specific information in compliance with the requirements of CEQA and the State CEQA Guidelines. As described in Section 4.6 of the Recirculated DEIR, land uses at the Project Site have changed over time. Since the 1920s, the Project Site has been used by students, researchers, and professors to research different agricultural practices and their effects on crop growth. In some cases, the research involved the use of pesticides to test their effectiveness on pest control and support of crop growth.

In deciding to surplus and sell the Project Site, the State of California, as the owner of the property, completed a series of investigations to understand past activities that occurred at the Project Site and to characterize the condition of on-site soils. The results of these investigations were summarized in Section 4.6 of the original DEIR and Recirculated DEIR and the technical reports were included in Appendices D and E of the Recirculated DEIR.

During the public review periods for both the DEIR and the Recirculated DEIR, multiple comments were received that addressed the hazardous materials analysis. In some cases, comments on the Recirculated DEIR repeated comments submitted on the DEIR. Many of the comments expressed concern with the past activities that occurred at the Project Site and their potential to create a hazardous condition for future residents and nearby neighbors. There were several commenters that asked specific questions regarding the technical analyses performed to evaluate hazardous chemicals at the site, while other commenters expressed concern with the types of chemicals found at the Project Site.

The purpose of this master response is to provide a comprehensive response to those issues that were raised by multiple commenters and that are best suited to be addressed in a broad and organized manner. Those letters raising specific comments on the technical analysis are provided with, individual responses in Chapter 4 and 5 of this document.

The issues addressed in this Master Response as raised by multiple commenters, are the following:

- ▶ The methodology for the analysis did not include a broad range of constituents and there is disagreement regarding the sampling protocol.
- ▶ Site remediation activities could result in the release of airborne contaminants, which may cause health-related impacts.
- ▶ The DEIR does not include a health risk assessment.
- ▶ The DEIR should evaluate the use of bioremediation/phytoremediation techniques to clean up on-site soils.

3.4.1 METHODOLOGY USED IN PREPARATION OF THE HAZARDOUS MATERIALS ANALYSIS PROTOCOL AND DETERMINATION OF CONSTITUENTS

To address the potential presence of hazardous materials or substances at the Project Site, DGS directed the preparation of a Phase 1 Site Assessment (Phase 1), which was completed in July 2002. This document is included as Appendix D of the Recirculated DEIR. The Phase I was prepared under the oversight of the Department of Toxic Substances Control (DTSC), and in compliance with standard protocol outlined in the *Standard Practice for the Preparation of Environmental Site Assessments: Phase I Environmental Site Assessment Process (ASTM E1527-00)* published by the American Society for Testing and Materials (ASTM).

DTSC regulates hazardous waste in California primarily under the authority of the federal Resource Conservation and Recovery Act of 1976, and the California Health and Safety Code. DTSC is the state agency responsible for implementing clean up standards overseeing the clean up of properties contaminated with hazardous substances.

The purpose of the Phase 1 was to identify areas of potential environmental concern at the site and develop recommendations for additional study. The Phase 1 is an investigation consisted of the following:

- ▶ A site visit to look for visual indicators of hazardous materials (e.g., stained soils, hazardous material containers);
- ▶ Interviews of former employees of the site;
- ▶ Review of documents addressing site operations including: a report of closure for the former evaporation bed, underground tank removal documents, asbestos survey report, irrigation well documents, business plan documents, a chemical inventory, a pesticide list and restricted materials permit, septic system documents, and pesticide use summary monthly reports from 1979 to 2002.
- ▶ Review of historical aerial photographs from 1937 to 2002 (all aerial photos publicly available);
- ▶ Review of regulatory agency databases conducted by Environmental Data Resources, Inc. (EDR);
- ▶ Review of City Directory information;
- ▶ Review of a 1966 Sanborn Fire Insurance Map;
- ▶ Review of historical United States Geological Survey (USGS) San Jose West topographical maps; and,
- ▶ Review of files at the City of Santa Clara Fire Department.

The Phase I identified three potential issues of concern related to past activities at the Project Site. These issues consisted of (1) potential for soil contamination under or near the former evaporation bed from discharged wastewater; (2) potential for soil contamination from past pesticide use; (3) and the potential for soil contamination from operation of two former underground storage tanks. Please refer to Appendix D of the Recirculated DEIR for additional details regarding the results of the Phase I investigation.

Based on the information obtained in the Phase I investigation and consistent with industry-standard investigative protocol, DGS directed the preparation of a Phase II – Site Characterization Report (Phase II), which is included as Appendix E of the Recirculated DEIR. The purpose of the Phase II report was to investigate the issues of concern identified in the Phase 1 as well as investigate whether current or past chemical use at the Project Site resulted in soil concentrations that might pose a threat to public health and the environment. The Phase II study involved extensive sampling and testing of on-site soils. In determining what methodology to use to evaluate hazardous constituents at the Project Site, DGS, in consultation with DTSC, selected a protocol that was

conservative based on the past uses and conditions at the Project Site, the types of hazardous constituents that could be present on-site, and the future use of the property.

Based on consultation with DTSC, the standard for sampling soils at the Project Site was based on methodology developed by EPA-DTSC for sampling agricultural soils for proposed school sites. The guidance and methodology for school sites considers the additional sensitivity of children to potentially toxic substances as well as DTSC's experience and data with regards to residual chemicals at former agricultural sites. The school site sampling requirements include the collection of a greater number of samples and test evaluations compared to other sampling and testing protocols developed by DTSC. As such, the protocols and standards used to characterize the site are the most stringent established by the State.

Based on the records of pesticide use from 1979 to 2002 reviewed during preparation of the Phase I (described above and more thoroughly in Appendix D of the Recirculated DEIR), approximately 90 chemicals were used at the Project Site (see Appendix B of the Phase I in Appendix D of the Recirculated DEIR). 76 of these chemicals were not considered to be of concern at the Project Site because they were either: 1) of low toxicity; 2) not persistent in the environment (i.e., they breakdown into non-toxic components very quickly); and/or 3) they were used in very small quantities at the Project Site. The methodology and specific rationale for not sampling and testing these 76 chemicals in site soils at the Project Site is described in detail in Appendix D of the Recirculated DEIR. DTSC agreed with this methodology and approved the Phase 1 and Phase 2 Site Characterization Report on November 10, 2003 (see Appendix A of this document).

The remaining 14 chemicals were sampled and tested for at approximately 60 locations throughout the Project Site (please refer to Exhibit 4-5 in the Recirculated DEIR). In addition and because there were no records of pesticide use prior to 1979, the samples collected from approximately 60 locations were also tested for an additional 75 pesticides/herbicides that were known to be in common use prior to 1979 and that could be potentially toxic and persistent in the environment. The selection of these chemicals was based upon the best historical information available for the Project Site, common knowledge of pesticide use practices from the early 1900's to present day, and the professional judgment of a qualified environmental professional (i.e., Anne Gates with Environ). The chemicals selected were agreed to by DTSC. The 89 chemicals tested fall into the following general categories: organochlorine pesticides, organophosphorous pesticides; carbamate and urea pesticides; triazine herbicides, chlorinated herbicides; and inorganics/heavy metals. Therefore, soil samples were collected from approximately 60 locations and tested for a total of 89 chemicals at the Project Site. With the exception of two chemicals (dieldrin and arsenic), no concentrations of contaminants exceeding DTSC screening levels for each of the remaining 87 constituents tested were found in on-site soils at the Project Site.

Several commenters disagreed with the methodology used to select the range of chemical constituents that were evaluated as part of the Phase II. Some commenters suggested that there were many unknown agricultural pesticide practices that could have been implemented at the Project Site and that the chemicals used in these situations could have resulted in a potential hazard. While commenters disagreed with the methodology, they did not identify any specific chemicals not previously identified through the methodology described above or possibly present based on past agricultural practices were identified. In preparation of the hazardous materials analysis and other analyses for the EIR (e.g., cultural resources), several interviews with former staff of the BAREC facility were conducted to better understand the daily operations on the Project Site. These interviews did not reveal any new information regarding the past use of pesticides at the Project Site. Further, DGS, the City, and DTSC have no knowledge of any other pesticides that were used at the site. While there may have been other pesticides used at the Project Site, there is no evidence to support this suggestion. Further, the methodology described above evaluated an additional 75 chemicals that were known to be in common use during the period of time before recordkeeping; however, no evidence (measured concentrations) of their use at the Project Site was found during the analysis. As a result, the methodology described above is appropriate and no additional investigation is warranted.

The results of the Phase II report indicated that while elevated concentrations of arsenic and dieldrin were identified, there is no evidence that soil contamination deeper than 4 feet below ground surface (bgs) was present in the on-site fields (see Exhibit 4-5 of the Recirculated DEIR). Shallow soils (i.e., less than 4 feet deep) have elevated pesticide concentrations (i.e., dieldrin) above the U.S. Environmental Protection Agency's (USEPA) preliminary remediation goals (PRGs) for residential use. PRGs are conservative risk-based screening levels that are protective of human health and are intended to assist in the initial screening and evaluation of contaminated sites. The dieldrin PRG for residential use is 30 ug/kg, and concentrations up to 240 ug/kg were found in three soil samples above the PRG; the samples with dieldrin above the PRG were collected at 0.5 bgs on the Project Site. Arsenic was also found to exceed area background concentrations in portions of the site. Please see the Phase II report for additional details (Appendix E of the Recirculated DEIR).

In response to the results of the Phase II report, DGS entered into a Voluntary Clean Up Agreement (VCA) with DTSC (May 12, 2003) (Appendix A of this document). The VCA provides the basis for DTSC to exercise regulatory control and oversight for the investigation and ultimate cleanup of contamination on the Project Site. DGS and DTSC have been working closely together to characterize on-site soil contamination and identify the appropriate remediation methods to clean up on-site soils to unrestricted residential use levels consistent with the terms of the VCA. The "unrestricted residential use" clean up standard was selected because this is the most conservative standard that would not result in any use limitations at the Project Site. The Project Site is proposed to be developed with residences and a park. Day-to-day activities at the site would bring residents in contact with on-site soils (e.g., gardening, landscaping, and park use). Because the site would transfer ownership to private individuals, the State has no authority to limit the activities that can occur on private property, except to the degree that activities must comply with the law and local codes and ordinances. DGS would not want to limit the future usability of the property being sold; therefore, it chose to implement the more restrictive clean up standard of "unrestricted residential use. The unrestricted residential use standard would clean up on-site soils to a level that would allow residents to routinely come in contact with on-site soils without resulting in an adverse health impact.

Pursuant to the VCA, DGS prepared a draft Removal Action Workplan (RAW) that identifies necessary remediation activities for soils with arsenic concentrations above background levels and dieldrin above regulatory screening levels. The draft RAW consists of the following elements:

- ▶ **Site Characterization:** This section provides a description of the site background information regarding past operations, a description of the local geology and hydrogeology, a description of on-site facilities (past or present) that have contributed the historic hazardous material context, and a summary of the results of previous site investigations (i.e., Phase I and II);
- ▶ **Identification of Remedial Actions, Goals, Objectives, and Scope:** This section identifies the chemicals of concern, the removal action objectives and the clean up goals for the chemicals of concern, i.e. arsenic and dieldrin, at the Project Site. Regulatory standards are identified and are compared to the identified remediation clean up levels.
- ▶ **Identification and Evaluation of Removal Action Alternatives:** This section describes 3 potential remediation alternatives proposed for the Project Site and an evaluation of the alternatives in relation to National Contingency Plan (NCP) and U.S. Environmental Protection Agency (USEPA) clean up guidelines. Based on the evaluation provided herein, a remediation alternative is selected for the Project Site.
- ▶ **Removal Action Implementation:** This section details the steps that will be taken to implement the selected remediation alternative including providing specific guidance and mitigation measures for the demolition of on-site buildings, vegetation stripping, excavation, soil stockpiling, site security, dust control, air monitoring, verification that soils have been remediated to unrestricted residential use levels, and site restoration.

The content of the Draft RAW approved by DTSC was prepared using this methodology and approved it for public release on May 11, 2004; it is still current today. Final approval of the RAW will occur once written responses to comments on the draft RAW are prepared and the Final EIR is certified. The EIR identifies approval and implementation of the RAW as part of the Project. Approval of the RAW by DTSC is required to allow implementation of the Proposed Project.

The long-term objectives of the RAW are to (1) minimize exposure of future residents to surface soils containing arsenic above 20 milligrams per kilogram (mg/kg), (2) ensure the mean concentration of dieldrin in an individual field is below 30 micrograms per kilogram (µg/kg), and (3) leave the site in a physical condition that is compatible with unrestricted residential use. This use would allow future residents to pursue a normal range of activities, including gardening, without restriction. As required by the NCP and USEPA, the primary objective of the selected remediation alternative shall also minimize adverse public health effects during implementation of the selected alternative. The selected remediation alternative outlined in the RAW would minimize soil disturbing activities to approximately 2 weeks, which is substantially less than other remediation alternatives considered. To confirm that soils on the project site will be remediated to unrestricted residential use levels consistent with the requirements of the RAW, soil samples will be collected from the excavated areas by a qualified environmental professional and analyzed by a California-certified laboratory to confirm that clean up goals have been achieved. If the confirmation samples show that elevated concentrations of chemicals remain, additional soil will be excavated and removed until the clean up goals for unrestricted residential use are met and verified by DTSC. This approach ensures the site meets stringent clean up standards after the completion of soil removal and remediation. The approach used to determine clean up criteria to be used at the site are consistent. Unless DTSC issues a no further action letter, which certifies that the site has been cleaned up in accordance with the RAW, no sale or development of the site will occur. Therefore, irrespective of the soil clean up methodology used, soils at the site would meet DTSC clean up standards.

Some commenters questioned whether the activities and mitigation measures outlined in the draft RAW were mandatory. Through the VCA, DGS has agreed to implement the activities and measures outlined in the approved RAW and DTSC's regulatory oversight of the implementation of the approved RAW would ensure that the remediation activities outlined in the RAW are implemented. To clarify the mandatory nature of the RAW, the following text in the Recirculated DEIR is revised. Note that the requirements of the final RAW will be determined by DTSC. The following text, however, makes it clear that, in any event, the approved RAW will include the following requirements. The existing discussion of Impact 4.6-1 is revised as follows:

IMPACT ANALYSIS

Create a Safety Hazard to Construction Workers and Adjacent Residences.

Remediation activities would be completed in accordance with the provisions of the approved RAW under the oversight of the DTSC. The development contractors would be required to comply with state health and safety regulations during demolition and construction activities. Because remediation activities would occur in accordance with measures outlined in the approved RAW and demolition activities would comply with OSHA requirements, impacts related to creation of significant safety hazards for construction workers or adjacent residents would be less than significant.

The Phase I and II reports identified the presence of elevated concentrations of arsenic and dieldrin in onsite soils as a result of past pesticide use. Further, asbestos, lead-based paint and PCBs are also likely to be present in onsite buildings and power poles. DGS entered into a VCA with DTSC and prepared a draft RAW that identifies the necessary remediation activities to excavate and remove onsite contaminated soils. Following a public hearing and consideration of public comments, the draft RAW will be finalized and

formally approved by DTSC. The approved RAW ~~would require~~ the preparation of a site Health and Safety Plan. This plan would outline measures that must ~~would~~ be employed to protect construction workers and residents from exposure to hazardous materials during remediation activities. These measures must include, but are not ~~be~~ limited to: installing security barriers, posting notices, limiting access to the site; air monitoring, watering, and installing wind fences. Further, development contractors would be required to comply with state health and safety standards for all demolition work. This would include compliance with OSHA and Cal-OSHA requirements regarding exposure to asbestos and lead-based paint. Because remediation activities would occur in accordance with measures outlined in the approved RAW and demolition activities would comply with OSHA requirements, the potential to expose construction workers and adjacent residents to safety hazards as a result of remediation and demolition activities would be less than significant.”

These changes do not alter the conclusions presented in the DEIR. In the event DTSC decides not to approve the RAW, site remediation activities would not be allowed to proceed and the Project would not be developed. If DTSC decides to approve the RAW with substantial changes, those changes would be evaluated against the information and analysis included in the DEIR and Recirculated DEIR to determine whether additional analysis would be warranted consistent with the requirements for recirculation under CEQA (Section 21166 of CEQA).

3.4.2 POTENTIAL HEALTH IMPACTS OF REMEDIATION ACTIVITIES, INCLUDING AIRBORNE DISPERSAL

Several commenters expressed concern regarding the potential for health-related impacts associated with the release of airborne contaminants during site remediation activities. As described in Section 4.1.3 of the draft RAW, the selected remediation alternative would excavate and remove contaminated soil from the Project Site. The soil removal activities would occur in four locations on the Project Site. The excavated soil would be loaded into haul trucks, properly covered, and hauled to an appropriate off-site disposal facility for disposal. The excavated areas would then be backfilled with clean fill material and the entire site regraded to prepare for building construction. A total of approximately 6,000 cubic yards of soil material would be removed from the Project Site over an approximate 2-week period (40 truck trips per day). Removal of these soils would occur in compliance with the standards identified in the transportation management plan prepared for the project site. The site remediation activities would generally consist of the following:

- ▶ Demolition of all on-site buildings. All demolition activities would occur in compliance with all applicable regulations including regulations pertaining to the handling, management, and disposal of asbestos-containing materials and lead-based paint. The potential to encounter asbestos or lead-based paint exists any time a project involves demolition of an older structure (e.g., for lead-based paint, prior to 1978). Because of the frequency with which these issues are encountered, Federal and State regulatory agencies have adopted detailed regulations governing lead-based paint and asbestos abatement. (See, e.g., Bay Area Air Quality Management District, Regulation 11, Rule 2 (asbestos emissions during demolition); 40 CFR Part 745 (lead-based paint).) Demolition activities associated with the project will be required to comply with these regulations.
- ▶ Delineation of excavation areas. The perimeter of all areas identified for remediation will be clearly identified and marked.
- ▶ Site Stripping. All vegetation and loose soils will be cleared from the site.
- ▶ Security Measures. Appropriate security measures will be installed prior to excavation to ensure the site is secure and safe. All access to work areas by the public would be prevented.

- ▶ Health and Safety Plan. A detailed health and safety plan will be submitted to DTSC prior to implementation of the RAW that will outline the safety measures that would be implemented to prevent accidents at the site. The health and safety plan would be prepared consistent with the Occupational Safety and Health Administration (OSHA) regulations including Hazardous Waste Operations and Emergency Response (29 CFR 1926, 1910.120), and Construction Industry Standards (29 CFR 1926).
- ▶ Confirmation Soil Sampling. During soil excavation activities, confirmation soil samples will be taken to ensure that concentrations of arsenic and dieldrin are below established clean up goals. Only when on-site clean up goals are achieved, will excavation cease.

Sections 5.4 and 5.5 of the draft RAW describe the extensive dust control and air monitoring activities that would occur to lessen or eliminate exposure of nearby residents to airborne contaminants during proposed soil remediation activities. These mitigation measures include, but are not limited to, the following:

- ▶ Using wet suppression of exposed soil areas (using water which leads to the formation of a surface crust to reduce the available reservoir of dust);
- ▶ Stopping excavation work during high wind (25 mph or greater) conditions;
- ▶ Installing wind fences and a dust screen around excavation areas;
- ▶ Covering soil stockpiles (except when stockpile is being loaded); and
- ▶ Performing continuous dust monitoring along the property fence line to ensure that dust levels remain below action levels. If dust levels exceed action levels, additional dust control measures will be implemented and/or soil removal work stopped until dust levels are below action levels.

These dust control activities would adequately protect nearby residents from any potential health effects associated with the release of contaminants with dust during remediation activities.

While DTSC believes that the RAW adequately addresses the potential health-related impacts associated with the contaminants present at the Project Site and included this data in the DEIR and Recirculated DEIR, in response to comments received on the DEIR and Recirculated DEIR, DGS has prepared a Screening-Level Risk Assessment (SRA) to clarify and confirm the conclusions of the Draft EIR regarding the potential health risks from exposure to dust by off-site populations during remediation of the Project Site (included as Appendix A of this document). The SRA was prepared using data that was previously presented in the DEIR and Recirculated DEIR and consistent with risk assessment guidelines of USEPA and the California Environmental Protection Agency (California EPA). DTSC has issued a letter approving the methodology and content of the SRA (see Appendix A of this document). Incorporation of this information into this document would not constitute significant new information because information used in preparation of the SRA was included in the DEIR and Recirculated DEIR and no new significant impacts would occur (see Section 15088.5[a] of the State CEQA Guidelines).

The objective of the SRA was to determine the additional cancer risk and noncancer health hazard associated with the exposure of residential receptors to airborne dust released during proposed remediation activities. The lower end of USEPA's and California EPA's target risk range for cancer risks is one in a million (i.e., 1×10^{-6}). The analysis determined that the total additional cancer risk from airborne dust containing arsenic and dieldrin would be six in one billion (6×10^{-9}) for an adult resident and three in 100 million (3×10^{-8}) for a child resident. These levels are approximately 30 to 200 times below the lower end of USEPA's and California EPA's target risk range for cancer risks. A "hazard index" of one (1) or less is not expected to result in adverse noncancer health effect. The project's noncancer hazard indices are 0.04 for an adult and 0.2 for a child, which are both much lower than the hazard index of 1. Based on the results of the analysis conducted in the SRA, it was confirmed that the project's potential health risks to adjacent residents from exposure to dust during remediation activities would be less than significant, as previously concluded in the Draft EIR. Dust control measures approved by DTSC are

consistent with dust control measures recommended by the Bay Area Air Quality Management District (BAAQMD) that would be implemented by the project applicant (see page 4-30 of the DEIR). With implementation of dust control measures outlined in the RAW and in the DEIR, airborne dust would be appropriately suppressed to prevent its migration to off-site areas. Therefore, the project's potential to result in adverse health effects from the generation of dust during remediation activities would be less-than-significant.

3.4.3 PREPARATION OF A HEALTH RISK ASSESSMENT

Several commenters requested that a formal human health risk assessment (HHRA) be prepared for the project. An HHRA is a formal, step-by-step, scientific process for quantifying health risks to a receptor (e.g., a future resident) from exposure to a particular contaminant (e.g., inhalation of dust containing dieldrin and arsenic). The goal of a HHRA is to understand what levels of cleanup are necessary to protect peoples' health.

Following completion of the Phase I analysis and during preparation of the Phase II, DGS prepared an internal draft of a screening-level HHRA to determine the areas of the site that would potentially require remediation based on the health risks that these areas may pose to existing nearby residents and future residents of the Project Site. This internal draft HHRA was prepared as an element of the Phase II –Site Characterization Report in November 2002. At the time the internal draft HHRA was prepared, DGS had not formally entered into the VCA with DTSC. However, on May 12, 2003 the VCA between DTSC and DGS was officially executed. The internal draft HHRA identified the contamination present on the Project Site and the potential health risks associated with leaving the contamination in place. The VCA describes the contamination present on the Project Site and also identifies the measures that would be implemented to remove this contamination and remediate on-site soils to unrestricted residential use levels that are protective of public health. Therefore, because a VCA was executed and is more protective of public health, preparation of an HHRA was no longer needed, and was not finalized or included in the Phase II – Site Characterization Report. DTSC issued a letter approving the project's Site Characterization Report (without inclusion of an HHRA) (see Appendix A of this document).

With the need for such an assessment eliminated by execution of the VCA to clean the site to a level that was protective of peoples' health, there was no need to include it in the reference section of the DEIR. While the HHRA was inadvertently included in the reference chapter of the DEIR, an HHRA was neither required by DTSC nor relied upon in preparing the hazardous material analysis for the DEIR. The VCA process has been used, in consultation with DTSC, to protect public health through the clean up of the site. The VCA process determined the appropriate clean up levels with remediation of the Project Site soils to unrestricted residential use levels, which are protective of people's health. Arsenic is being cleaned up to naturally occurring background concentrations, and dieldrin is being cleaned up to the residential PRG. Because clean up levels were set at unrestricted residential use through the VCA process, it would be duplicative to have an HHRA to establish the clean up levels for the Project Site.

3.4.4 USE OF PHYTOREMEDIATION/BIOREMEDIATION TO REMEDIATE ON-SITE SOILS

Several commenters suggest that the DEIR should evaluate a phytoremediation/bioremediation alternative to the proposed soil removal remediation activities proposed in the RAW. Bioremediation is any process that uses microorganisms, fungi, green plants or their enzymes to return the environment altered by contaminants to its original condition. Bioremediation processes that do not use plants involve adding water and nutrients to surface soil, and periodically tilling the soil to optimize bacterial growth and the bioremediation process. While many of the studies have cited the success of bioremediation in reducing contaminant concentrations, it is not clear whether the contaminant concentrations decreased because of dilution from the addition of large volumes of nutrients such as cow manure, lime, and fertilizer during the bioremediation process rather than from a "natural" bioremediation process. Furthermore, bioremediation, when effective, may result in strong odors for an extended period of time, because of the use of manure and odors generated by decomposition. These odors could be a nuisance to nearby residents. As a result, bioremediation was not considered a viable remediation alternative for the Project Site.

As stated above, phytoremediation is a technology that uses plants to remediate or stabilize contaminants in soil, groundwater, or sediments. This technology uses living plants suitable to the particular contaminant for within the site soils (in situ) or outside the site soils (ex situ) remediation (ITRC 1999). The fate of the contaminants is unknown when using phytoremediation as a remedial alternative. With respect to dieldrin at the Project Site, phytoremediation techniques would require the recurring addition of amendments to the soil to enhance the remediation process, which would involve the repeated disking and turnover of the soils. For large areas (several acres) contaminated with dieldrin, phytoremediation can be a viable approach. However, the area at the Project Site affected by dieldrin is small (two small isolated hotspots) and the recurring, soil mixing activity over a period of months to years would require more disturbance (i.e., release of dust) than the one-time excavation (over 2 weeks) proposed by the project. As discussed above, according to the NCP and USEPA guidelines, the selected remediation alternative shall minimize adverse public health effects during implementation of the selected alternative; this includes limiting the amount of time that the public could be potentially exposed to elevated concentrations of dieldrin in soil.

To address elevated arsenic in soil to depths up to approximately 4 feet bgs, phytoremediation requires significant effort to establish and maintain the new plants within the affected area. Tilling of soil and applications of herbicides and pesticides are needed to effectively manage the succession of introduced plant species. Successive layers of soil must be subjected to phytoremediation and removed to reach the depth necessary to remove the arsenic in the soil. Some species of plants that are sought after for remedial applications are favored food sources of animals and humans. The transfer of toxins through successive food chains could result in unforeseen detrimental effects to ecosystems, wildlife, and humans, if the plants were ingested. For example, bracken fern (*Pteridium aquilinum*) has been documented to extract arsenic from the top 12 inches of contaminated soil. Arsenate, however, is stored in plant tissues at high concentrations and can later be transferred to other biological organisms when plant matter is consumed. One other negative aspect of using bracken fern is that it is an invasive species. When landscapes are disturbed and native vegetation is removed, bracken fern has the potential to completely dominate a region.

Most of the plants thought to be suitable to remediate arsenic in soil, such as bracken fern, have limited root structures. To effectively remediate arsenic to a depth of approximately 4 feet, at least three successive phases of planting, removing vegetation, and disturbing on-site soils would be required. Each phase of planting and removing vegetation/soil could result in potentially greater soil disturbance than the excavation alternative proposed in the Draft RAW. For these reasons, phytoremediation was not considered a viable remediation alternative for the project.

3.5 MASTER RESPONSE 5 — CULTURAL RESOURCE IMPACTS

Multiple comments were submitted regarding the cultural resource analysis of the DEIR. The comments included the following subjects:

- ▶ Commenters question or disagree with the methodology used in preparation of the cultural resources evaluation (see Section 3.5.1 below).
- ▶ Commenters disagree with the conclusions presented in the DEIR and stated the opinion that the Project Site should be listed on the California Register of Historical Resources (CRHR) and the National Register of Historic Places (NRHP) (see Section 3.5.2 below).
- ▶ Commenters stated that the DEIR did not evaluate the BAREC's historical contribution to development of strawberry varieties that played an important role in the reintroduction of Japanese families into farming after World War II and about other roles of the site in the history of agriculture in the region (see Section 3.5.3 and 3.5.4 below).

Other issues pertaining to cultural resources were raised by individual comments. Individual responses can be found in Chapters 4.0 and 5.0 of this document.

3.5.1 METHODOLOGY USED IN PREPARATION OF THE EIR CULTURAL ANALYSIS

To evaluate the project's cultural resource impact, an investigation of the historic setting and past uses of the Project Site has been performed and presented in the DEIR. Data from a variety of sources were researched, collected, reviewed, independently verified, and incorporated into the DEIR. This methodology is consistent with CEQA, the State CEQA Guidelines and Section 106 of the National Historic Preservation Act (NHPA). These data included the following:

- ▶ *Archaeological Literature Review and Field Inspection of the Winchester U.C. Research Center Project Area, San Jose, Santa Clara County, California* prepared by Holman & Associates (2002);
- ▶ *Historic Evaluation Report, Bay Area Research & Extension Center, Office of Veterans Affairs*, prepared by Ward Hill Consulting (2002);
- ▶ Field visits to the BAREC facility by an EDAW architectural historian and botanist in December 2005;
- ▶ Research collected to investigate the project's eligibility as a cultural landscape, which included the following data sources:
 - Historic maps and plats;
 - Deed records;
 - Local and county histories;
 - City directories;
 - Oral history interviews with Clyde Elmore, UC Davis Cooperative Extension Weed/Horticulture Specialist, Retired; and Nancy Garrison, Santa Clara County Cooperative Extension Specialist, Retired; and
 - Review of available historical files for the project area at the Santa Clara Public Library, San Jose Public Library, Santa Clara County Assessor's office, History San Jose's Archives and Museum, and the California State Library's California History Room.

SIGNIFICANCE CRITERIA USED IN THE DEIR

The DEIR describes the ethnographic, cultural, and historic setting of the Project Site and surrounding area and the regulations and thresholds by which project impacts are assessed. It also provides an impact assessment of the historic and cultural significance of on-site structures, remnant structures, and the overall landscape.

In accordance with CEQA, if implementation of a project would result in significant impacts on historical resources, then feasible alternatives or mitigation measures must be considered. An historical resource is defined in the State CEQA Guidelines Section 15064.5. Its definition includes "a resource listed or eligible for listing on the CRHR" (Public Resources Code Section 5024.1). A historical resource may be eligible for inclusion on the CRHR if it (see Section 15064.5 of the State CEQA Guidelines):

- ▶ Is associated with events that have made a significant contribution to broad patterns of California's history and cultural heritage; or

- ▶ Is associated with the lives of persons important in our past; or
- ▶ Embodies the distinctive characteristics of type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
- ▶ Has yielded, or may be likely to yield, information important to prehistory or history.

Other parts of the State CEQA Guidelines definition of historical resources include:

- ▶ A resource determined to be eligible by the State Historical Resources Commission for listing on the CRHR; and
- ▶ A resource included in a local register of historical resources, as defined in Section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements Section 5024.1(g) of the Public Resources Code.

As described on pages 4-135 through 4-140, the DEIR evaluated the significance of the project's cultural resource impacts based on the requirements of the State CEQA Guidelines (Section 15064.5); guidelines for determining a resource's eligibility for the National Register (National Register 30); *Guidelines for Evaluating and Documenting Rural Historic Landscapes* (1999); National Register 18, How to Evaluate and Nominate Designated Historic Landscapes, the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes (1992); and the California Register of Historic Resources eligibility criteria (Public Resources Code Section 5024.1(c)).

Resources that are eligible for listing on the CRHR include sites that are the location of a significant event, or a building or historic structure. These sites do not need to be marked by physical remains. Eligible sites could include trails, landscapes, battlefields, or habitation sites (CCR 14, Chapter 11.5, Section 4852[a] [2]). Cultural resources locations may also be considered for eligibility as California Historical Landmarks or California Points of Historical Interest (PRC Section 5022.5). Criteria to evaluate resources for these listings may be found on the Office of Historic Preservation website (<http://ohp.parks.ca.gov>).

Sites must also be evaluated for their integrity under California Code of Regulations (CCR) Section 4852(c), which states:

Integrity is the authenticity of an historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance.

Historic integrity is the composite effect of seven qualities: location, design, setting, materials, workmanship, feeling, and association. A property's periods of significance become the benchmark for measuring whether subsequent changes contribute to its historic evolution or alter its historic integrity. Historic integrity requires that the various characteristics that shaped the land during the historic period be present today in much the same way they were historically. The general character and feeling of the historic period must be retained for eligibility.

Structures and features on the Project Site and the overall landscape of the Project Site must also be evaluated for their contribution to a significant "rural historic landscape" and/or California Historical Landmark. For purposes of the National Register, a rural historic landscape is defined as a geographical area that historically has been used by people, or shaped or modified by human activity, occupancy, or intervention, and that possesses significant concentration, linkage, or continuity of areas of land use, vegetation, building and structures, roads and waterways, and natural features. For additional discussion regarding the eligibility criteria for historic landscapes please see page 4-137 of the DEIR. A California Historical Landmark is a site, building, feature, or event that is of statewide significance and has anthropological, cultural, military, political, architectural, economic, scientific or technical, religious, experimental, or other value. For additional discussion regarding the eligibility criteria for

historic landmarks please see page 4-139 of the DEIR. With regard to the site's significance as an agricultural research facility, please see Section 3.5.2, "CRHP and NRHP Eligibility Determination," below.

Section 106 of the NHPA requires federal agencies to take into consideration the potential effects of proposed undertakings on cultural resources listed on or determined potentially eligible for inclusion in the National Register of Historic Places (NRHP), and to allow the Advisory Council on Historic Preservation the opportunity to comment on the proposed undertaking. The regulations implementing Section 106 are promulgated by the Secretary of the Interior, as codified in Title 36 Code of Federal Regulations (CFR) Part 800.

Section 106 requirements apply to properties both on the NRHP and those not formally determined eligible, but which are considered to meet eligibility requirements. The NHPA authorizes the Secretary of the Interior to maintain and expand a National Register of districts, sites, buildings, structures and objects of significance in American history, architecture, archaeology, engineering and culture. A property may be listed in the NRHP if it meets criteria for evaluation as defined in 36 CFR 60.4, which states that the quality of significance in American history, architecture, archaeology, engineering and culture is present in districts, sites, buildings, structures and objects that possess integrity of location, design, setting, materials, workmanship, feeling and association and:

- (a) That are associated with events that have made a significant contribution to the broad patterns of our history; or
- (b) That are associated with the lives of persons significant in our past; or
- (c) That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- (d) That have yielded, or may be likely to yield, information important in prehistory or history.

3.5.2 CRHR AND NRHP ELIGIBILITY DETERMINATION

A detailed evaluation of the Project Site's importance in relation to the significance criteria described above is provided on pages 4-141 through 4-145 of the DEIR. In order to analyze the project's potential impacts, the DEIR first provides a comprehensive review of the project's cultural and historic significance. The analysis was prepared in accordance with CEQA and the State CEQA Guidelines and all other applicable regulations (described in Section 3.5.1 above) for evaluating the significance of cultural resources. In preparing the DEIR, extensive research was conducted to investigate if past site activities and on-site buildings/features would be considered historically significant. The methodology by which the analysis was performed is consistent with accepted professional standards for evaluating cultural resources. Based on review of these materials, the DEIR concluded that the project's impacts to on-site structures would be less-than-significant. While there are remnant features of past activities present at the Project Site (e.g., sidewalk remnants), these features were not determined to be significant resources because none of the uses that are associated with these features meet the criteria for significant that would render the property eligible for listing on the CRHR, NRHP, identification as a California Historical Landmark, or a California Point of Historical Interest (see Impact 4.11-3, page 4-145 of DEIR).

Several commenters state that the BAREC property may represent one of the last remaining agricultural experiment stations and, as such, is a historically significant site. The University of California's currently active agricultural experiment stations are listed as follows: Desert Research and Extension Center in El Centro, Hopland Research and Extension Center in Hopland, Intermountain Research and Extension Center in Tulelake, Kearney Research and Extension Center in Parlier, Lindcove Research & Extension Center in Exeter, Shafter Research and Extension Center in Shafter, Sierra Foothill Research and Extension Center in Browns Valley, South Coast Research and Extension Center in Irvine, and West Side Research and Extension Center in Five

Points. Unlike the BAREC property, all of the above research centers currently support active agricultural research experiments. As such, the BAREC property is not the last remaining agricultural research station.

One of the above agricultural research facilities has been listed on the NRHP (in 1997) and recognized as a Registered Historical Landmark No. 1022: the Shafter Research and Extension Center. The Shafter Research and Extension Center is the University of California's (UC) principal field research facility for cotton. The research station was established in 1922 and was known locally as the Kern County Experimental Farm and internationally as the U.S. Cotton Field Station.

Cotton was a minor crop in California because of the distance from spinning and weaving centers and cotton brokers on the East Coast. The U.S. Department of Agriculture (USDA) and researchers at UC believed that the development of a single, high-quality variety to be grown state-wide would overcome those issues because it would allow buyers to be confident that unseen cotton would perform the same in the mills from year-to-year.

Cotton breeding experiments, variety development, seed production, weed and insect control, disease management and control, agricultural engineering, and irrigation studies have been carried out at the Shafter location since the 1920s. Research conducted at the Shafter research station resulted in the development of the "Acala" varieties which were exceptionally well suited to the San Joaquin Valley. The quality of the Acala cottons and the marketing advantage of the one-variety cotton district, created in 1925, resulted in premium cottons with a world wide demand. Through the continued vision and cooperative efforts of growers and researchers, production of Acala cotton became one of California's largest agricultural enterprises. Because of its significant contribution to the State agricultural economy, the Shafter Research and Extension Center was listed on the NRHP and recognized as a California Historical Landmark.

In contrast, as described in the DEIR and this master response, research activities occurring at the BAREC site have not resulted in significant contributions to State or national agricultural practices or economy.

The issue regarding BAREC's potential role as a historic landscape related to past agriculture was suggested by commenters, specifically, that the BAREC site might represent one of the last remaining examples of farming in the region, or one of the last remaining agricultural experimental stations. Regarding farming activities, Santa Clara County and neighboring jurisdictions support large areas of land that is designated for agricultural operations. These areas are generally located within the central portion of Santa Clara County. As such, the Project Site is not one of the last remaining examples of farming in the region.

Regarding agricultural research stations, as described above, the University of California currently operates 10 agricultural research stations only one of which (Shafter Research and Extension Center) has been listed on the NRHP as a California Historic Landmark for its contribution to State and national agricultural practices related to exceptionally important advances in cotton production. However, the research activities that occurred at the BAREC site does not appear to have resulted in significant contributions to State or national agricultural practices or economy.

No research information indicates that BAREC site was ever intended for use as a farm or developed as a farm in the traditional sense of producing commercially available crops; it was used for small-scale agricultural experimentation. No evidence is available about how the land used by the earliest property owners (1872-1908), but by 1910 the Osborne Hall mental health facility was the principal industry on the site. There are overgrown remnants of some of the botanical experiments left on the BAREC site, but these are principally related to the last phases of agricultural testing conducted there, which were focused on ornamental plants, rather than more traditionally farmed crops.

As described in Impact 4.11-2 (page 4-145) of the DEIR, a number of historic-era uses of the site have been noted in the project area, including the Osborne Sanitarium, the Women's Relief Corps Home, and the University of California Agricultural Extension. The DEIR concluded that the collective uses (i.e., research activities, care facilities, women's relief corps) and history of the property, while interesting, do not rise to the level of potential

historical significance as a cultural landscape or geographic area based on the importance of past uses. None of these uses meet the criteria for significance that would render the property eligible for listing to the CRHR, NRHP, or identification as a California Historical Landmark or a California Point of Historical Interest, because activities at the Project Site are not associated with events that have made a significant contribution to broad patterns of California's history and cultural heritage. Existing buildings on the Project Site were determined to be ineligible for the CRHR due to their lack of distinctive architectural characteristics. In addition, the BAREC is one of the smaller and younger research stations in the University system. The Project Site or its features would not be eligible for listing CRHR or NRHP eligibility criteria (described above). As a result, the DEIR concluded that the project would not disturb or destroy any known historical resources, as defined by State CEQA Guidelines Section 15064.5, and impacts would be less than significant.

3.5.3 BAREC'S CONTRIBUTION TO STRAWBERRY FARMING PRACTICES

Several comments were received on the analysis of historic resources presented in the DEIR. Some commenters suggested that some past activities that occurred at the Project Site could have resulted in significant contributions to history in the area strawberry farming post World War II. No evidence of significant activities or contributions to history was uncovered during the research activities that were conducted to prepare the DEIR. In response to these comments, however, the City directed that additional review of available information be performed to determine if any information could reasonably be obtained regarding past strawberry farming activities that occurred at the Project Site and the importance of these activities in relation to reintegration of Japanese-Americans after World War II and in relation to developing the strains of strawberries commercially farmed today.

Additional research related to the development of strawberry varieties at BAREC, including the following sources:

- ▶ Contacted the authors of the book *Japanese Legacy: Farming and Community Life in California's Santa Clara Valley* (1985);
- ▶ Discussion with the authors of the book *Japanese Legacy: Farming and Community Life in California's Santa Clara Valley* (1985);
- ▶ Research at the Sacramento State University and UC Berkeley libraries;
- ▶ Website research;
- ▶ Interviews with Japanese American Museum of San Jose curators;
- ▶ Interviews with a former strawberry grower and Central California Berry Growers Association board member familiar with BAREC;
- ▶ Research by Dr. Ellen Dean, Botanist and UC Davis Herbarium Director, regarding the development of strawberry varieties in California at UC Davis; and
- ▶ Interviews with retired agricultural extension agent and retired strawberry growers familiar with research at UC Davis.

Based on the results of this research (described in Section 3.5.4, "Research Related to Strawberry Farming Practices at the BAREC Facility"), the information obtained provides clarification and elaboration of the analysis originally presented in the DEIR. This supplemental data gathering did not result in the discovery of any significant new information and confirmed that the analysis presented in the DEIR is accurate. Based on the lack of evidence that was uncovered during the additional research, the City concluded, consistent with the

requirements of State CEQA Guidelines Section 15088.5(b), that the additional information obtained clarified the existing information related to past research activities that occurred at the Project Site and that presentation of this information in this document would not deprive the public a meaningful opportunity to offer comment on a significant impact issue. The City believes the analysis prepared for cultural resources (Section 4.11 of the DEIR), including the information below, is adequate and would not meet the requirements for recirculation.

The conclusion of the FEIR, like that of the DEIR, is that none of the structures or remnant structures on the Project Site nor the overall site landscape qualify as historical resources under Section 15064.5 of the State CEQA Guidelines. Furthermore, they are not eligible for listing on the California Register of Historical Resources or the National Register of Historic Places. Key aspects of the analysis that was originally conducted and that relate to response to the comments on the DEIR and Recirculated DEIR are presented below.

Several comments on the DEIR focused on the asserted importance of the development of strawberry varieties at BAREC and their importance to Japanese farmers before World War II, as well as their importance to returning interned Japanese farmers after the war. As a result, additional research was conducted by EDAW to clarify BAREC's role (if any) in historical strawberry farming practices in the Santa Clara Valley.

To initiate the research, EDAW contacted the State of California, Office of Historic Preservation (OHP) on September 18, 2006 to discuss the Proposed Project, review comments received on the DEIR, and receive direction on the research that should be pursued to characterize the importance of strawberry farming to returning Japanese internees, the importance and relevance of strawberry research work at BAREC, and relationship and integrity of the BAREC property and 1928 structures for conveying information about strawberry development at the facility. OHP indicated these questions should be directed to the following issues:

- ▶ Confirming the importance of strawberry farming to Japanese farmers before WWII;
- ▶ Understanding the importance of strawberry farming to Japanese farmers after WWII;
- ▶ Discovering whether or not advances in strawberry development and production made at the BAREC station significantly affected production such that they could contribute to the site's qualification as a significant historical resource; and
- ▶ If research conducted regarding strawberry production was significant, determining whether the remaining structures from this historic period and on-site fields contribute to the significance of the research.

The Ward Hill architectural report (2002) found that the buildings were not historically significant on their own merits; as a result, it appears that they could only be found to be significant as part of a historic landscape. Based on potential historical themes that were not already researched and resolved in the DEIR, staff of OHP indicated that, the remaining questions were whether these buildings were significant contributors to a historic landscape related to the agricultural past of the region and whether there is sufficient evidence that significant historic activities related to strawberry research occurred at the Project Site (regardless of the relationship to Japanese farmers). If there is no evidence of significant historic activities related to strawberry research (regardless of the relationship to Japanese farmers), then the Ward Hill evaluation would be considered sufficient documentation and the buildings would not be considered to be part of a historic landscape.

3.5.4 RESEARCH RELATED TO STRAWBERRY FARMING PRACTICES AT THE BAREC PROPERTY

In response to comments received and to understand BAREC's relationship to historic strawberry farming practices, qualified EDAW cultural resources and botanical specialists performed the research tasks listed above. The results of the research are provided below and supporting documentation is included in Appendix B of this document:

- 1) EDAW contacted Timothy Lukes and Gary Okihiro. Dr. Lukes is a member of the faculty at the Jesuit University in Silicon Valley, in the Political Science Department. Dr. Okihiro is a member of the faculty at Columbia University, in the Department of International and Public Affairs. Together, they authored a book called Japanese Legacy: Farming and Community Life in California's Santa Clara Valley (1985). Dr. Lukes responded to the inquiries regarding the significance of strawberry farming to returning Japanese internees after the war and indicated that he had no particular knowledge of that issue and it was not addressed in his book. (Appendix B of this document). Dr. Okihiro suggested looking at War Relocation Authority documents at UC Berkeley that might include resettlement information. See item 8 below for a discussion of the results of research conducted at UC Berkeley.
- 2) EDAW conducted research at the Sacramento State University library to locate any information related to the topics of interest. Most available books focused on the history of the Japanese coming into California and replacing the Chinese as agriculturalists around the turn of the century. There was general agreement that Japanese farmers were responsible for raising 80-90 percent of strawberries in California before WWII (Iyenaga and Sato 1921; <http://www.returntothevalley.org>). However, most of the books focused on the social aspects of immigrant Japanese society and did not address Japanese resettlement after WWII. A typical example of the types of literature found was Japanese American Ethnicity the Persistence of Community by Fugita and O'Brien published in 1991 (excerpt attached; Appendix B of this document) describing how traditional cultural values assisted the Japanese when they entered California agriculture. The most significant written resource found was a publication of the War Relocation Authority called People in Motion, the Postwar Adjustment of the Evacuated Japanese Americans, Vol. 5 published in 1947. The first part of this book restates the degree of Japanese involvement in west coast agriculture, but then discusses the difficulty of securing work after the war, the fact that farm leases which had been sold or given up could not be reclaimed, and summarizes the impacts of the war on the farming community. As a result of these factors, the book estimates that only approximately 25 percent of Japanese farmers returned to farming after the war. This estimate considered all crop types, so only a fraction of this proportion would have farmed strawberries, but there is no data about which crops they were growing in the post-war period (excerpt attached; Appendix B of this document). This level of return to strawberry farming (i.e., some fraction of one-quarter of Japanese farmers formerly involved in farming) would indicate that non-strawberry farming professions played a majority role in the reintegration of Japanese internees after the war and strawberry farming's role was relatively small.
- 3) EDAW performed extensive web searches at sites that were found using online search engines searching keywords such as Japanese, farm, strawberry, etc. EDAW also searched the California Strawberry Commission website, the Central California Berry Grower Association (now Naturipe Berry Growers) site, the USDA Economic Research Service, the National Agricultural Statistics Service of the U.S. Department of Agriculture, and the California Department of Food and Agriculture web sites. These websites focus on present-day research and information. Most sites contained minimal historical information related to their particular interest.
- 4) Some information was available on the Museum of the City of San Francisco and the Santa Cruz Public Library websites. This information consisted of statements generally reiterating previously published information that the Japanese essentially took over much of the Chinese farming activity in California, including strawberry cultivation, in the early part of the 20th century (before World War II).
- 5) EDAW spoke with one of the curators of the Japanese American Museum of San Jose, Leslie Masunaga. She could not recall any information related to our topic of interest and suggested that we review the Lukes and Okihiro book (discussed above). EDAW also interviewed Ken Iwagaki at the museum, who suggested that we contact John Hayakawa, an 88-year old former strawberry grower in Santa Clara. Mr. Hayakawa was interviewed by EDAW (notes attached; Appendix B of this document). He farmed strawberries from 1950-1960 and at the same time was on the board of the Central California Berry Growers Association (now Naturipe) as a representative of small farmers in the region. EDAW inquired about the history of strawberry

farming in the region, his experiences, and what he knew about the development of new strawberry strains and farming techniques.

Mr. Hayakawa repeated some of the same existing, available information, such as the Japanese replacement of Chinese farmers early in the 20th century. He had no knowledge of the relative number of Japanese farmers who returned to farming after World War II. He said that in the early days of BAREC, there was some attempt to collect and culture wild strawberry varieties from the Santa Cruz Mountains. However, he emphasized that development of new strawberry strains occurred at UC Davis; experimental plants were grown in nurseries; and the experimental plants (from the nursery) were then grown locally at experimental stations to test their effectiveness, such as BAREC. He recalled that one of the reasons plant development research occurred at UC Davis, rather than BAREC, was because pests and fungi coming from tomatoes grown previously for research at BAREC made it almost impossible to grow early (non-resistant) strawberry varieties. The remainder of the conversation varied and included discussions of the stressors to which strawberries are susceptible, treatment technologies (parathion, methyl bromide, etc.), and growing techniques, such as use of black plastic, and their individual advantages and disadvantages. One of the indications from this oral history is that it reinforces the premise that UC Davis was the center of strawberry research during the period in question (shortly before and after World War II).

- 6) Ellen Dean, Ph.D., Director of the UC Davis Herbarium, assisted in researching the history of strawberry development at BAREC and UC Davis. Her report (Appendix B of this document) includes an appended section taken from Darrow (1966) discussing work that began in Davis in 1925. Darrow's book indicates that two men, Goldsmith and Thomas, collected plants and experimented with hybridizing and developing new strains at BAREC between 1929 and 1934 (which correlates with Mr. Hayakawa's recollection that there were people looking for varieties in the Santa Cruz Mountains). BAREC, along with five other research station locations, was used to try to grow new varieties under local conditions. Greenhouses were used to house strawberry plant nurseries. However, the physical conditions and location of BAREC (in a strawberry growing region) and previous use of the BAREC site for growing tomatoes meant that there were numerous pests and fungal disease that made growing strawberries in this location very difficult. In 1934, strawberry breeding work was moved to the Davis/Sacramento area to escape the pest and fungus problem. Significant strawberry varieties were developed after WWII, but that work occurred at UC Davis. This also supports the premise that the most important location of strawberry research during the period before and after World War II was UC Davis.

Dr. Dean also examined research by Wilhelm and Sagen (A History of the Strawberry 1974) and Thomas and Goldsmith's 1945 "The Shasta, Sierra, Lassen, Tahoe, and Donner Strawberries" California Agricultural Experiment Station Bulletin 690. She interviewed Dr. Doug Shaw, Strawberry Breeder at the UC Davis Department of Plant Sciences; Clyde Elmore, retired UC Cooperative Extension Advisor, Weed Science Group; and Mr. Tom Sjulín (email attached), retired Driscoll strawberry breeder and un-official company historian. Dr. Dean compared the information in the various accounts cited here and noticed some internal discrepancies regarding dates and locations, but concluded that Goldsmith and Thomas did some experimental hybridization at BAREC from approximately 1929-1932. In 1932, because of significant disease and insect problems, the research activities were moved to a site called Zyanthe (near Olympia, CA in the Santa Cruz Mountains); however, the disease and insect problem was worse in this location than at BAREC. A limited number (i.e., 1-3) additional hybridization experiments were conducted at Zyanthe. In 1934, Goldsmith and Thomas took seeds from their hybrids to UC Davis (plant material could not be taken because of the risk of spreading disease or insects), replanted the seeds and developed new strawberry plants that were only hybridized one or two more times before being released to agricultural stations where they were experimentally grown for several years before being released to the public in 1945. These varieties were widely grown until they were supplanted by more modern varieties resulting from continuing research to improve the various desirable characteristics of strawberries. It is these more modern varieties that are available today. Therefore, the varieties developed at BAREC in the early 1930s were a part of the lineage of strawberry varieties in the research program, but were altered several times before being released for use. The

central research occurred at UC Davis, where the hybrids that became the publicly released varieties were developed.

Dr. Dean also provided EDAW with a synopsis of strawberry breeding techniques:

Strawberry plants multiply by sending out runners which produce clones of the parent plant. These clones are cross-bred with other plants to produce a hybrid which is fruited (to test for various desirable and undesirable qualities) and brought to a point where larger and longer-term field trials are useful. If seeds are cultivated, they are grown in a hot-house and transplanted into increasingly large pots until they are robust enough to be transplanted outdoors.

Dr. Dean spoke with a retired UC Cooperative Extension Advisor to the Weed Science Group, Clyde Elmore. Mr. Elmore stated that Dr. Haravandi began work in circa 1973 as part of a national testing program of turfgrass varieties, experimenting with irrigation and fertilization of many different species of grasses. Mr. Elmore indicated that he and Dr. Haravandi conducted mulching studies at BAREC between the late 1970s to the early 1990s. This research consisted of testing the effectiveness of wood mulch versus yard waste (e.g., lawn clippings) in weed control. He indicated that many others also did this research including researchers at the South Coast Research station. Mr. Elmore indicated that the BAREC facility was not the only research facility that focused on horticultural questions. UC Riverside and the South Coast Research Station also conducted many horticultural experiments.

- 7) EDAW conducted research at the Main Library, the Bioscience and Natural Resources library, and at the Giannini Foundation of Agricultural Economics library, all on the UC Berkeley campus. The resources available at the Main Library were similar to those found at Sacramento State University in that they contained general information regarding Japanese settlement and history in California. The Bioscience and Natural Resources library collection included volumes of annual reports from the Agricultural Experiment Station. The volumes from 1929-1934 were examined; no references to strawberry research were found other than general updates in the pomology section of the introduction to the volumes. EDAW's research at the Agricultural library focused on the period from 1945-1950 on the assumption that resettlement of internees and advances in strawberry horticulture affecting them would have occurred during that time period. However, related documentation was sparse, frequently again focusing on farm ownership and Japanese contributions to the strawberry crop before World War II. The agriculture library had a copy of the U.S. Census of Agriculture for California Counties from 1959; however, no copies of editions closer to our period of interest were available.

IMPORTANCE OF STRAWBERRY FARMING TO JAPANESE-AMERICANS POST WORLD WAR II

Information indicated that the Japanese were responsible for most of the strawberry cultivation in California before World War II, having taken over much of the agricultural activity from the Chinese. Available historic information indicates that about a quarter of interned Japanese-Americans returned to farming after the war, including all types of crops. Only some fraction of those farmers returned to cultivating strawberries; however, the research did not find what fraction it was and there is no evidence to support the contention that all interned Japanese-Americans returned to strawberry farming. Clearly, non-farming professions played a more significant role for reintegration of Japanese internees, recognizing the low percentage of the population that returned to farming, in general, after World War II and the fact that strawberry farming would have been a fraction of the farming activity. Strawberry farming, which represented some fraction of a quarter of the prior farming population, played a small role.

IMPORTANCE OF STRAWBERRY EXPERIMENTS TO COMMERCIAL STRAWBERRY FARMING PRACTICES

There was some experimental strawberry breeding that occurred between approximately 1929 and 1934 at BAREC, well before World War II. Because of poor soil conditions and a large, destructive insect population, the

experimental work moved to the Santa Cruz Mountains from 1933-1934, where conditions were even worse, and to UC Davis by 1934. Seeds from the hybrids were crossed with strawberry lines being developed at UC Davis, which were field tested for several years and distributed to growers in 1945. Ongoing hybridization experiments over the years led to the development of new varieties of strawberries which have supplanted older strains. UC Davis eventually developed several important strains of strawberry (beginning in the mid-1920s) and became the epicenter of significant strawberry research in California, before the advent of World War II.

IMPORTANCE OF ON-SITE BUILDINGS TO STRAWBERRY FARMING RESEARCH

The Ward Hill (2002) architectural evaluation of the 1928 office/lab and shed buildings found that they were relatively intact but not eligible for listing to the California Register of Historical Resources on their own merit. They were extant at BAREC at the time period when experimental cross-breeding of strawberry varieties occurred; the BAREC property also retains (in an overgrown state) the open fields that once were used to test experimental strains of strawberry. However, the greenhouses that would have been a necessary part of the developmental process have been removed. The only greenhouses on site today date to the 1960s or later (Hill 2002). The lack of structural remains relating to a key element of strawberry development substantially reduces the historic integrity of the site.

CONCLUSIONS REGARDING STRAWBERRY RESEARCH

While the BAREC station contributed strains of berries that were used in later development of strawberry horticulture in California, there is no evidence that any exceptionally significant advances in strawberry farming practices or varieties came from BAREC. The BAREC strawberries were some of the several lineages of strawberries that later, after crossbreeding, were used to advance strawberry cultivation. As such, there is no evidence of exceptional historical events that involved the development of strawberry cultivation advances within the landscape of the BAREC property and the remaining research buildings on the Project Site. Evidence indicates that UC Davis is where the groundbreaking research occurred during the period shortly before and after World War II. In addition, the nursery operations at the experiment stations required the use of greenhouses within the fields. None of the greenhouses remaining on BAREC date back to the 1920s and 1930s, when strawberry experiments were conducted there.

Because no exceptional historic activities related to strawberry research occurred at the BAREC, key facilities involved in BAREC strawberry experiments (i.e., greenhouses) have been removed, and the centerpiece of California strawberry research was in UC Davis during the period, research confirms the previous DEIR findings that the site is not eligible as a historic landscape or a historical resource under State CEQA Guidelines Section 15064.5. The Ward Hill report that concluded on-site buildings were not eligible for listing on the CRHR or NRHP. The City has consulted with staff of OHP regarding the results of the research presented in the DEIR and the additional research regarding strawberry farming activities; OHP staff has issued a letter that concurs with the findings presented in the DEIR (see Appendix B of this document). Further, staff of OHP indicated that no additional research is required to support a finding of no significant impact to historical resources (Dutschke, Stratton, pers. comm., 2006).

In conclusion, the FEIR concludes, like the DEIR also did, that the BAREC property and buildings do not qualify as historical resources, as defined by Section 15064.5 of the State CEQA Guidelines, and the Proposed Project would have a less-than-significant impact on cultural resources; no mitigation measures or alternatives would be required. Further, none of the information uncovered regarding the site's importance to strawberry farming practices suggests that it would meet the requirements for "significant new information" as described in State CEQA Guidelines 15088.5(a). As such, the City has determined that recirculation of the DEIR is not required.

3.6 MASTER RESPONSE 6 — NO PROJECT ALTERNATIVE – CURRENT ZONING (SMALL-SCALE FARMING)

Several commenters suggested that the EIR should evaluate a new alternative that would consider implementation of a small-scale, community-oriented farm. The DEIR considered a reasonable range of alternatives to the project including: No Project Alternative – Continuation of Existing Land Uses, No Project Alternative – Current Zoning, the Reduced Development Alternative, and the All Single-Family Development Alternative. The No Project Alternative – Current Zoning contemplated retaining the site for agricultural uses consistent with the uses that are allowed under the site's existing zoning designation. This alternative evaluated the comparative environmental effects that would occur if the Project Site was developed with livestock farming, row crops, ranches, nurseries, and greenhouse land uses. A small-scale farming operation would be an allowable land use under the existing zoning designation.

Consideration of a small-scale farming alternative for the Project Site would result in an environmental analysis that is substantially similar to the analysis prepared for the No Project Alternative – Continuation of Existing Conditions and No Project Alternative – Current Zoning (see Sections 7.2 and 7.3 of the DEIR), because the same types of activities (e.g., active cultivation of row crops, fields, and orchards) would occur. The magnitude (e.g., the level of development, intensity of operations) of environmental impacts would not be substantially different than the analysis for the No Project Alternative – Current Zoning. A small-scale farming alternative would include either the same operations or only minor variations of the potential range of operations that could occur on the Project Site and that are consistent with uses allowed under the existing zoning for the site. Nonetheless, because several commenters requested that a small-scale farming alternative be evaluated as part of the EIR, the City has decided to provide an analysis of a variant of the No Project Alternative- Current Zoning that describes the impacts associated with small-scale farming operations. Evaluation of No Project Alternative – Current Zoning (Small-Scale Farming variation) is not considered significant new information that would require recirculation under CEQA (see State CEQA Guidelines Section 15088.5). This variant would not be “considerably different” from the No Project Alternative –Current Zoning that was previously analyzed in Section 7.3 of the DEIR [see State CEQA Guidelines Section 15088.5 (a) (3)], but the analysis describes a different range of activities that could occur on the Project Site as allowed by current zoning entitlements. The analysis provided below describes the proposed activities that could occur on the Project Site and the likely environmental impacts under the No Project Alternative – Current Zoning (Small Scale Farming variation). This analysis is consistent with the analysis presented in Section 7.3 of the DEIR and describes only minor variations in potential agricultural land uses.

3.6.1 NO PROJECT ALTERNATIVE – CURRENT ZONING (SMALL-SCALE FARMING)

The No Project Alternative –Current Zoning (Small-Scale Farming) assumes that the Project Site would be developed with land uses that are consistent with existing zoning designations in the form of a small, community-based farming operation. This farming operation would likely consist of small buildings/nurseries, orchards, row crops, and/or herb gardens. Electricity is currently available at the Project Site to support these uses. However, water would need to be secured from the City as the on-site water well has been abandoned. Some new minor structures may be required; however, it is possible that some of the existing on-site structures could be used for farming operations (e.g., public stand, storage shed, nursery). Some smaller farming equipment may be used at the site and could include small tractors and plows. Areas of the Project Site containing elevated concentrations of hazardous chemicals (e.g., arsenic and dieldrin) would still require remediation prior to public operation of the small-scale farming business. The specific funding sources for a small scale farm are unknown. It may be possible that funding for the remediation of the Project Site to unrestricted use levels could be sought from grants for such activities. The cost of remediating the site is estimated to be \$875,000. No source of grant funding has been identified that would be sufficient to perform this clean-up. Thus, the feasibility of cleaning up the site so that it can be used for small-scale farming is unknown. Nevertheless, for purposes of this analysis, it is assumed that an adequate funding source would be secured to remediate on-site soils to unrestricted residential use levels. That would enable the use of the site for small-scale farming.

LAND USE

This variant of the No Project Alternative would result in less-than-significant impacts related to alteration of land uses and land use compatibility, because it would include agricultural uses on the Project Site that are consistent with current zoning and similar to past uses. Activities at the site could be more or less intense compared to previous agricultural experiment station conditions depending on the specific types of agricultural operations that occur. This variant would eliminate the Proposed Project's significant and unavoidable conversion of prime farmland to non agricultural uses, because the Project Site would continue to be used for agricultural operations. Although some new buildings may be constructed, these buildings would support agricultural operations and, therefore, would be consistent with land use and zoning designations for the site.

VISUAL RESOURCES

This variant of the No Project Alternative would not result in significant visual impacts, because the site would generally be substantially unchanged from existing conditions. At the most, some small structures may be added to support the agricultural operations, but as a small community farm operation, they would not be expected to exceed one story or require substantial square footage. No significant changes in the overall visual character of the Project Site and surrounding area would occur under this variant. Accordingly, this variant would have fewer impacts than the Proposed Project.

AIR QUALITY

This variant of the No Project Alternative would result in less construction-related air quality impacts than the Proposed Project, because less construction would occur (e.g., potential construction of small buildings to support agricultural operations on portions of the site). This variant would not result in substantial long-term vehicle emissions because no new residences are proposed. However, this variant would result in operational emissions associated with farming activities, including emissions from farming equipment (e.g., tractors, plows, trucks) and dust emissions from tilling fields. These emissions are not anticipated to be substantially different from past operations, because past operations have resulted in the full use (i.e., farming) of the Project Site, which is anticipated to occur under this variant. Farming operations at the site would not include aerial spraying of pesticides. Such operations could not occur at the site due to the proximity of existing residential development.

This variant would result in less-than-significant air quality impacts and these impacts would be less than the Proposed Project.

NOISE

Noise associated with farming equipment would occur on a regular basis as part of daily operations and could reach high levels for brief periods of time. These noise levels could potentially exceed the City's maximum acceptable exterior noise standard of 75 dBA at nearby adjacent residences. Farm vehicle noise would be most likely to exceed City noise standards when operating close to the edge of the property near adjacent residences. This noise impact would be potentially significant. Noise from farming operations is often cited as a reason for the incompatibility of adjacent agricultural and residential uses. In this case, the site is largely surrounded by existing residential neighborhoods. Thus, if active agricultural operations were to be reestablished at the site, then there is a significant chance that adjacent residents would be annoyed by, and complain about, noise emanating from the site. Measures may be available to reduce these impacts; such measures could include constructing sound walls, or establishing buffer areas around the perimeter of the site where operation of farm equipment is not permitted. Although impacts would be reduced with implementation of mitigation, it is unknown whether these measures would reduce noise levels associated with proposed activities to a less-than-significant level. Therefore, this variant could result in a potentially significant and unavoidable noise impact that would not be experienced as a result of the Proposed Project.

BIOLOGICAL RESOURCES

This variant of the No Project Alternative would result in a similar level of biological resource impacts compared to the Proposed Project, because the Project Site would be fully used for farming operations. It is likely that fewer trees would be removed from the Project Site under this variant, compared to the Proposed Project, because they have been avoided in previous farming activity; however, impacts to onsite trees are less than significant under the Proposed Project, so the retention of on-site trees would not be a substantial environmental advantage of this variant.

HAZARDS AND HAZARDOUS MATERIALS

This variant of the No Project Alternative would result in comparable types of construction-related hazards and hazardous material impacts to the Proposed Project, because it could demolish some existing buildings (which contain asbestos and lead-based paint) and would require handling, transporting, storage and use of hazardous materials during operation (e.g., fuels, fertilizers, pesticides). These activities would be done in accordance with applicable local, state, and federal regulations. It is assumed that funding would be able to be secured for the remediation of on-site soils to unrestricted residential use levels, because securing this funding would be a necessary prerequisite to establishing a small farm. As such, this variant would result in similar less-than-significant hazards impacts than the Proposed Project.

EARTH RESOURCES

Any new structures constructed at the site would be designed in accordance with current UBC design standards. However, none of the existing on-site structures are designed to meet current seismic design standards and could experience substantial damage in the event of an earthquake and expose workers to unsafe conditions. This would be a potentially significant impact for this variant that would not be experienced as a result of the Proposed Project.

HYDROLOGY AND WATER QUALITY

This variant of the No Project Alternative would result in decreased hydrology and water quality impacts compared to the Proposed Project, because a majority of the site would remain unpaved or uncovered. This variant is not anticipated to substantially increase stormwater volumes from existing conditions and, therefore, would not generate stormwater volumes that would exceed the capacity of the City's storm drainage system. Although this variant would eliminate the Proposed Project's potentially significant stormwater impact, this impact from the Proposed Project has been mitigated to a less-than-significant level (please refer to mitigation measure 4.8-2, 4-85 of the DEIR). Construction and farming operations at the site would result in ground disturbance similar to the Proposed Project. This ground disturbance could lead to onsite or offsite erosion; however, mitigation recommended for the Proposed Project would reduce this impact to a less-than-significant level. This variant could result in the daily use of pesticides and fuels, which could come in contact with on-site soils and percolate to groundwater beneath the site. However, it is anticipated that use of these materials would be in compliance with local, state, and federal regulations for their use, minimizing the risk of a spill or hazard. This would be a less-than-significant impact.

PUBLIC SERVICES AND UTILITIES

This variant of the No Project Alternative would result in similar or slightly reduced public service and utility impacts compared to the Proposed Project. Under this variant, public services, including police and fire protection, would not be substantially affected; electricity, natural gas, water and wastewater services would be required, but at reduced levels compared to the Proposed Project. This would be a less-than-significant impact.

TRANSPORTATION

This variant of the No Project Alternative would result in a reduction in trip generation from the Project Site, because no housing is proposed. It is likely that there would be an increase in the number of vehicles traveling to and from the site on a daily basis, compared to existing conditions. These trips would be related to farm employees commuting to the site, trucks making deliveries, and transport of produce after harvest. Compared to trips from residential uses, fewer trips would occur, so this variant would have less traffic impact than with the Proposed Project. Significant intersection and neighborhood traffic impacts would not be anticipated, recognizing the small size of the farm operation. Further, this increase is not expected to result in a significant cumulative effect, because the site's contribution to area traffic would be minimal. Because a new roadway leg would not be created at the Winchester Boulevard/Forest Avenue intersection, this variant would eliminate the Proposed Project's potentially significant and unavoidable vehicular site access impact.

CULTURAL RESOURCES

Farming activities at the site could potentially uncover previously undiscovered cultural resources. Mitigation recommended for the Proposed Project would reduce this impact to a less-than-significant level. Under this alternative, historic farming practices would resume. The City received comments stating a preference for this approach because it would preserve what those commenters regard as an historic landscape. Master Response 5 addresses, among other things, whether the site is a significant historic landscape. The analysis concludes the site does not qualify as a significant historic landscape. For this reason, this variant of the No Project Alternative would result in similar cultural resource impacts as compared to the Proposed Project. In other words, neither this alternative nor the Proposed Project will have a significant adverse impact on an historic resource.

POPULATION AND HOUSING

This variant of the No Project Alternative would not result in any of the Proposed Project's less-than-significant population and housing impacts, because no proposed homes would be constructed. This variant would not provide additional housing within the City to decrease the City's housing shortfall, which would eliminate a beneficial effect of the Proposed Project.

3.6.2 ABILITY TO MEET PROJECT OBJECTIVES

Implementation of this variant of the No Project Alternative would not meet any basic project objectives related to provision of single-family residential and affordable senior housing to meet the City's housing shortfall, and it would not maximize the financial benefits to the State. In addition, the feasibility of this alternative is questionable because this alternative would not generate the revenue necessary to provide funding to remediate the site.

3.6.3 ENVIRONMENTALLY SUPERIOR ALTERNATIVE

Section 7.8, "Environmentally Superior Alternative," of the DEIR describes which project alternative would be environmentally superior to the project consistent with the requirements of the State CEQA Guidelines Section 15126.6(e)(2). As described above, the No Project Alternative – Current Zoning (Small-Scale Farming) is a variant of the No Project Alternative – Current Zoning presented in Section 7.3 of the DEIR. The DEIR concluded (see Section 7.8) that the No Project Alternative- Current Zoning would not be environmentally superior to the project or to the All Single-Family Development Alternative and the Reduced Development Alternative, because it would result in the potential exposure of residents to new significant noise sources (e.g., farming activities) that could exceed the City's noise standards and it could also result in potential seismic-related hazards because existing on-site buildings are not designed to meet current safety standards. Further, this alternative would not meet any of the City's or State's project objectives. For the same reasons, the No Project Alternative – Current Zoning (Small-Scale Farming) would not be environmentally superior to the project.

The DEIR concluded (see page 7-42) that the Reduced Development Alternative would be environmentally superior to the project. The conclusions of the DEIR are still valid as the No Project Alternative – Current Zoning (Small-Scale Farming) would not be environmentally superior to the project or the Reduced Development Alternative.

3.7 MASTER RESPONSE 7 — LOSS OF AGRICULTURAL RESOURCES

The DEIR evaluated the project's impacts to farmland resources as an element of the land use section (Section 4.1, "Land Use and Agricultural Resources"). As described on page 4-5 of the DEIR, the Project Site is classified by the California Department of Conservation (CDC) as Prime Farmland and Farmland of Statewide Importance. CDC sponsors the Farmland Mapping and Monitoring Program (FMMP), which delineates important farmland resources in the state based on a particular set of criteria related primarily to soil type and the availability of water. Farmland that meets the specified criteria is placed in one of four main categories: Prime Farmland, Farmland of Statewide Importance, Unique Farmland and Farmland of Local Importance.

The DEIR evaluated the project's impact to farmland resource and determined that the project would result in a significant impact to farmland resources if it would:

- ▶ convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the FMMP, to non-agricultural use; or
- ▶ involve other changes in the existing environment which, due to their location or nature, could result in the conversion of farmland, to non-agricultural use.

As described in Impact 4.1-2 of the DEIR (page 4-7), the project's impacts were determined to be significant because the site would be converted from agricultural uses (i.e., agricultural research facilities) to urban (i.e., housing and urban park) land uses. The DEIR acknowledged that no important farmlands of sufficient size are available within the city or surrounding areas such that those alternate sites could be preserved or easements could be secured to continue farming operations in perpetuity (see page 4-9). The DEIR indicated that operation of large or small-scale operations within the City would not be feasible in the long run because the site is designated for future urban land uses in the City's General Plan, which would ultimately result in the development of the site with urban land uses. No other feasible mitigation is available. As a result, the DEIR concluded the project's impacts to farmland resources would remain significant and unavoidable (see page 4-9).

Multiple comments were received on the analysis presented for farmland resources. Comments on the analysis included the following:

- ▶ Commenters disagreed that small farming operations may not be economically viable;
- ▶ Commenters urged the City to maintain its existing agricultural designation; and
- ▶ Commenters suggested that the DEIR should evaluate an alternative that would develop the site with a small farming alternative.

Regarding evaluation of small farming alternative, please see Master Response 6 (Section 3.6) above. Responses to the other two comments addressing agricultural resources are provided below. Other issues pertaining to agricultural resources were raised by individual comments and individual responses to these issues can be found in Chapter 4.0 and 5.0 of this document.

3.7.1 FEASIBILITY OF SMALL FARMING OPERATIONS

The DEIR stated that large- or small-scale agricultural operations in Santa Clara County (a predominantly urbanized County) would not be economically viable in the long run because the Project Site is currently designated in the General Plan for urban land uses (i.e., moderate-density residential) and other factors including: lack of a Williamson Act contract; increasing local and state regulations; high water and labor costs; competition in the agricultural market by foreign and other state areas; and the presence of predominantly urban land uses adjacent to the site in the surrounding neighborhood.

The City proceeded with re-designation of the Project Site from agricultural land uses to urban land uses in the 1970's. At that time, the City determined, based on its vision for growth and development, that the Project Site would be best suited for urban development. While the City recognized that University of California was the property owner, the City identified that should this property transfer to private ownership, the land should be developed with urban land uses. The property retains its General Plan urban land use designation to this date. As such, development of the Project Site with land uses that are not consistent with urban land use designations would conflict with the City's General Plan and its vision for the property and surrounding area.

The City acknowledges that, depending on circumstances like the availability and cost of land within an urban community, small-scale farms on undeveloped urban parcels have been viable in some communities. Agricultural uses surrounded by urban uses and with residential uses abutting parcels create difficulties for viability, because cultivation processes involve activities that may generate noise and dust, agricultural traffic, and potentially the use of chemicals. Further, staff of the California Department of Conservation has indicated that this site would not qualify for the establishment of a conservation easement because it does not meet site selection criteria that consider expected future use (e.g., land use designations), surrounding properties, and the local agency's commitment to preserving farmland within its jurisdiction.

While comments regarding the site's potential viability as small urban farm are noted, as described in Master Response 6 above, this variant of the No Project Alternative would not meet any basic project objectives including providing affordable senior housing and providing additional housing units to meet the City's housing objectives. In evaluating whether to approve the project, the City will consider the Proposed Project and all alternatives evaluated in the EIR (including the small-scale farming alternative variant discussed in Master Response 6) and will determine whether to approve the project or one of its alternatives or deny the project.

3.7.2 RETAIN THE PROJECT SITE'S EXISTING ZONING DESIGNATION

The Project Site is currently designated for moderate-density residential in the City's General Plan and "A" Agricultural Zone District by the City's Zoning Ordinance. Currently, the Project Site's zoning is in legal nonconformance with its adopted General Plan land use designation (because the zoning predates the General Plan and the property's land use has not changed since the nonconformance arose). The Proposed Project would bring the Project Site's zoning in conformance with its land use designation through approval of the proposed zoning amendment. In adopting the City's 1992 General Plan and land use map, the City intended that the long-term development of the site would be urban development. Comments requesting that the existing agricultural zoning designation of the Project Site be retained are noted. The City will consider these comments, as well as the analysis included in the DEIR, Recirculated DEIR, and this Response to Comment document in determining whether to approve, conditionally approve, or deny the project.